



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
13/764,740	02/11/2013	Rama Ranganath	26295-20626/US	5519
87851	7590	07/26/2017	EXAMINER	
Facebook/Fenwick Silicon Valley Center 801 California Street Mountain View, CA 94041			GARG, YOGESH C	
			ART UNIT	PAPER NUMBER
			3625	
			NOTIFICATION DATE	DELIVERY MODE
			07/26/2017	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ptoc@fenwick.com  
fwfacebookpatents@fenwick.com

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE PATENT TRIAL AND APPEAL BOARD

---

*Ex parte* RAMA KITTANE RANGANATH, JARED MORGENSTERN,  
and MARK RABKIN

---

Appeal 2016-008526<sup>1</sup>  
Application 13/764,740  
Technology Center 3600

---

Before JOHN A. EVANS, HUNG H. BUI, and AARON W. MOORE,  
*Administrative Patent Judges.*

EVANS, *Administrative Patent Judge.*

DECISION ON APPEAL

Appellants seek our review under 35 U.S.C. § 134(a) of the Examiner's final rejection of Claims 1–20, all of the claims pending in the application. App. Br. 16. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.<sup>2</sup>

---

<sup>1</sup> Appellants identify Facebook, Inc. as the real party in interest. App. Br. 1.

<sup>2</sup> Rather than reiterate the arguments of Appellants and the Examiner, we refer to the Appeal Brief (filed March 8, 2016, "App. Br."), the Reply Brief (filed September 12, 2016, "Reply Br."), the Examiner's Answer (mailed August 10, 2016, "Ans."), the Final Action (mailed July 14, 2015, "Final Act."), and the Specification (filed February 2, 2013, "Spec.") for their

## STATEMENT OF THE CASE

The claims relate to a social networking system. *See* Abstract.

## INVENTION

Claims 1 and 17 are independent. An understanding of the invention can be derived from a reading of Claim 1, which is reproduced below with some formatting added:

1. A computer implemented method comprising: storing user profiles of each of a plurality of users of a social networking system, each user profile including one or more interests of a corresponding user;  
receiving, by the social networking system, a plurality of bids, each bid comprising information identifying a gift suggestion and a bid value representing revenue to be provided to the social networking system in connection with the gift suggestion;  
identifying by the social networking system, a life event of a target user of the social networking system;  
retrieving by the social networking system, one or more interests of the target user from the user profile of the target user;  
selecting by the social networking system, one or more candidate users connected to the target user via the social networking system; and  
for each of one or more of the candidate users:  
retrieving by the social networking system, one or more interests of the candidate user from the user profile of the candidate user,  
generating by the social networking system, a score for each of a plurality of gift suggestions based on factors including

---

respective details.

the bid value associated with the gift suggestion and a matching between the one or more interests of the target user and the one or more interests of the candidate user,

selecting by the social networking system, a gift suggestion from the plurality of gift suggestions based on the scores, and

sending by the social networking system, the selected gift suggestion for display to the candidate user.

### *Rejection*

Claims 1–20 stand rejected under 35 U.S.C. § 101 as directed to a judicial exception to statutory subject matter. Final. Act. 7–10.

### ANALYSIS

We have reviewed the rejections of Claims 1–20 in light of Appellants’ arguments that the Examiner erred. We have considered in this Decision only those arguments Appellants actually raised in the Briefs. Any other arguments which Appellants could have made but chose not to make in the Briefs are deemed to be waived. *See* 37 C.F.R. § 41.37(c)(1)(iv). We are not persuaded that Appellants identify reversible error. We provide the following explanation to highlight and address specific arguments and findings primarily for emphasis. We consider Appellants’ arguments *seriatim*, as they are presented in the Appeal Brief, pages 5–15.

### CLAIMS 1–20: NON-STATUTORY, ABSTRACT IDEA

#### *Doctrinal framework.*

“The statutory rule governing patent eligibility . . . is found in § 101 of the Patent Act . . . ‘[w]hoever invents or discovers any new and useful

process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.” *Amdocs (Israel) Ltd. v. Openet Telecom, Inc.*, 841 F.3d 1288, 1293 (Fed. Cir. 2016). Notwithstanding this broad mandate, “judicial gloss on the law of patent eligibility has long recognized that certain fundamental principles are not included in that broad statutory grant. Though over the years these principles have been described in differing terms, in today’s vernacular these exceptions are called ‘laws of nature, natural phenomena, and abstract ideas’.” *Id.* (quoting *Alice Corp. v. CLS Bank Int’l*, 134 S.Ct. 2347, 2354 (2014)).

The Supreme Court has established a two-part test to distinguish patents that claim one of the patent-ineligible exceptions to statutory subject matter from those that claim patent-eligible applications of those concepts. *Alice*, 134 S.Ct. at 2354 (citing *Mayo Collaborative Services v. Prometheus Labs., Inc.*, 132 S. Ct. 1289, 1294, 1296–97 (2012)). As directed by the Federal Circuit, we begin with Step 1, whether the claims are “directed to” a patent-ineligible concept. *Rapid Litigation Mgmt. Ltd. v. CellzDirect, Inc.*, 827 F.3d 1042, 1047 (Fed. Cir. 2016). If so, we next consider the various claim elements individually and in an ordered combination to determine whether the additional elements “‘transform the nature of the claim’ into a patent-eligible application.” *Alice*, 134 S.Ct. at 2355.

The Federal Circuit observes that there is no single test or definition to distinguish a patent-eligible claim from an ineligible one. *Amdocs*, at 1294. Instead of a definition or test, the decisional mechanism applied by the Federal Circuit is a comparison of the accused claims to those of prior cases

to determine how similar or parallel claims were decided. *Id.*; see *Electric Power Group, LLC v. Alstom S.A.*, 830 F.3d 1350, 1355 (Fed. Cir. 2016).

*Comparison of adjudicated claims*

The Examiner and Appellants agree that *Bilski* and *Alice* are relevant. The Examiner finds that it is “enough to recognize that there is no meaningful distinction between the conceptual abstraction of risk hedging in *Bilski* and the concept of managing and providing web hosting services, a commercial transaction. Both are squarely within the realm of ‘abstract ideas’ as the Court has used that term.” Final Act. 8 (citing *Bilski v. Kappos*, 561 U.S. 593 (2010); *Alice*, 134 S.Ct. 2347).

Appellants contend the Supreme Court uses the term “abstract ideas” to mean those ideas that are “building blocks” and “fundamental” to culture or the “modern economy,” and are “the basic tools of scientific and technological work.” App. Br. 7 (citing *Alice*, 134 S.Ct. at 2354, 2357). Appellants argue that, in order to establish that an idea is a fundamental building block in this sense specific references must be cited to support a finding that an alleged abstract idea is “long prevalent” in the field. Thus, according to Appellants, it must be shown the alleged abstract idea: 1) is long known, rather than of recent origin; and 2) is widely used. App. Br. 7.

Appellants contend the claimed social networking system is not a long prevalent practice in the field of promoting products, nor is using a social networking system as an intermediary for promoting products for gift giving a fundamental economic practice. App. Br. 8. Appellants argue a social networking system is a specific type of system that stores information describing users and their interactions with each other. Appellants insist their claims relate to a process of “managing a commercial transaction

wherein merchants/vendors use [the] social networking system as an intermediary or an agent for letting merchants/vendors promote their products.” *Id.* Thus, Appellants argue, the claimed method cannot be a fundamental economic practice because it encompasses a specific type of method to manage a commercial transaction using a specific type of system, and there are many other ways to manage commercial transactions. *Id.* (citing *Alice*, 134 S.Ct. at 2354 (distinguishing “patents that claim the ‘buildin[g] block[s]’ of human ingenuity,” from those that “pose no comparable risk of pre-emption”).

We disagree with Appellants because, whereas “preemption may signal patent ineligible subject matter, the absence of complete preemption does not demonstrate patent eligibility.” *Ariosa Diagnostics, Inc. v. Sequenom, Inc.*, 788 F.3d 1371, 1379 (Fed. Cir. 2015).

Appellants further argue the Examiner fails to identify the specific claim limitation that recites the judicial exception and, thus, the Examiner also fails to explain why any further limitations are not “significantly more” than the judicial exception. Reply Br. 4.

We agree with the Examiner’s finding that representative Claim 1<sup>3</sup> is drawn to the concept of providing gift suggestions to users of a social networking system based upon stored user profiles. Ans. 4. The Examiner finds, and we agree, the

social networking system, when given the broadest reasonable interpretation, can be considered as an entity to be represented

---

<sup>3</sup> The Examiner finds Claim 1 to be representative and rejects all claims based solely on a discussion of Claim 1. Final Act. 7 (citing *Planet Bingo, LLC v. VKGS, LLC*, 961 F.Supp.2d 854, 857 (W.D. Mich. 2013)). Appellants do not separately argue the claims. See App. Br. 5–15.

by a group of people and acting as an intermediary to provide gift suggestions for the group participants based upon life events such as birthdays, anniversaries, etc. based upon user profiles. For example, a social networking system could relate to a big family group comprising a plurality of relatives, siblings, children, adults, men, women, etc.

*Id.* Therefore, the “concept of *providing gift suggestions to users of a social networking system based upon stored user profiles* covers a ‘fundamental practice long prevalent in our system,’ involving human activity relating to commercial practices because the purchase of suggested gifts so relate to commercial practice.” *Id.* (citing *Alice*, 134 S.Ct. at 2357 (intermediated settlement); *Bilski*, 561 U.S. at 611 (risk hedging)). We agree with the Examiner’s finding that Claim 1 “requires concrete, tangible components such as ‘a computer associated with the social networking system.’”

However, as found by the Examiner, the Specification makes clear that the recited physical components merely provide a generic environment. *Id.* (citing Spec., ¶ 28 (“[T]he social networking system 100 is implemented using a computer system. The users including the target user 105 and friends 145 communicate with the social networking system using computer systems, for example, client devices.”)). Appellants’ disclosure further clarifies that the claims relate to an abstract idea: “A social networking system provides gift suggestions to users of the social networking system. The suggested gifts are presented to a user who is connected to a target user in the social networking system, where the suggested gift is for a life event of the target user.” Spec., ¶ 5.

Appellants cite *DDR Holdings, LLC v. Hotels.com, L.P.*, 773 F.3d 1245 (Fed. Cir. 2014), for the proposition that “additional limitations, though implemented on a generic computer, [may] confer patent-eligibility.”



Appeal 2016-008526  
Application 13/764,740

App. Br. 15. However, we agree with the Examiner that *Enfish* more aptly articulated how computer related claims can be patent eligible. Ans. 5. (citing *Enfish, LLC v. Microsoft Corp.*, 822 F.3d 1327, 1338 (Fed. Cir. 2016) (contrasting claims “directed to an improvement in the functioning of a computer” with claims “simply adding conventional computer components to well-known business practices”)). Appellants fail to show their claims result in any “improvement in the functioning of a computer,” or, indeed, the improvement of any technology. Thus, we find the claims are directed to non-patent-eligible abstract ideas.

#### DECISION

The Examiner’s rejection of Claims 1–20 under 35 U.S.C. § 101 is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED